

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DENNIS ALAN ROGGE,

Petitioner,

v.

R. GROUNDS, Warden,

Respondent.

No. C 11-6689 JSW (PR)

ORDER OF DISMISSAL

(Docket No. 2)

Petitioner, a state prisoner currently, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging a conviction and sentence obtained in 1999 in Santa Clara County Superior Court. His prior petition to this Court challenging the same conviction and sentence was denied on its merits. *Rogge v. Adams*, No. 03-1159 JSW (PR) (N.D. Cal., May 15, 2006). This Court and the Ninth Circuit subsequently denied his requests for a certificate of appealability.

A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this Court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A). Petitioner has not sought or obtained such an order from the Ninth Circuit. The petition is accordingly DISMISSED without prejudice to refiling if Petitioner obtains the necessary order.


1 Rule 11(a) of the Rules Governing Section 2254 Cases now requires a district
2 court to rule on whether a Petitioner is entitled to a certificate of appealability in the
3 same order in which the petition is decided. Petitioner has failed to make a substantial
4 showing that a reasonable jurist would find this Court's denial of his claim on procedural
5 grounds debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).
6 Consequently, no certificate of appealability is warranted in this case.

7 Petitioner's application for leave to proceed in forma pauperis (docket number 2)
8 is GRANTED.

9 The Clerk shall enter judgment and close the file.

10 IT IS SO ORDERED.

11 DATED: 2/3/12


12 JEFFREY S. WHITE
13 United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28